United Nations S/PV.3878

Security Council

Fifty-third Year

Provisional

3878th Meeting

Wednesday, 13 May 1998, 12.25 p.m.

New York

President:	Mr. Mahugu	(Kenya)
Members:	Bahrain	Mr. Al-Dosari
	Brazil	Mr. Valle
	China	Mr. Shen Guofang
	Costa Rica	Mr. Sáenz-Biolley
	France	Mr. Dejammet
	Gabon	Ms. Onanga
	Gambia	Mr. Touray
	Japan	Mr. Konishi
	Portugal	Mr. Monteiro
	Russian Federation	Mr. Karev
	Slovenia	Mr. Türk
	Sweden	Mr. Dahlgren
	United Kingdom of Great Britain and Northern Ireland	Sir John Weston
	United States of America	Mr. Richardson

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia

98-85316 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one week of the date of publication*, to the Chief of the Verbatim Reporting Service, room C-178.

The meeting was called to order at 12.25 p.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of May, I should like to take this opportunity to pay tribute, on behalf of the Council, to Mr. Hisashi Owada, Permanent Representative of Japan to the United Nations, for his service as President of the Security Council for the month of April 1998. I am sure I speak for all members of the Security Council in expressing deep appreciation to Ambassador Owada for the great diplomatic skill with which he conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia

The President: The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/1998/386, which contains the text of a draft resolution submitted by Costa Rica, France, Japan, Kenya, Portugal, Slovenia, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

I should like to draw the attention of the members of the Council to document S/1998/376, which contains the text of a letter dated 5 May 1998 from the Secretary-General addressed to the President of the Security Council, transmitting a letter dated 16 April 1998 from the President of the International Tribunal for the Former Yugoslavia addressed to the Secretary-General.

Sir John Weston (United Kingdom): I have the honour to speak on behalf of the European Union. The Central and Eastern European countries associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia — and the associated country Cyprus, as well as the European Free Trade Association countries members of the European Economic Area — Iceland and Norway — align themselves with this statement.

The European Union wishes to reaffirm once again its strong support for the International Tribunal for the Former Yugoslavia and its admiration for the achievements of that Tribunal since it was established under Security Council resolution 827 (1993). The important mandate entrusted to the Tribunal by this Council is to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991. This mandate is vital not only to avoid the possibility of the perpetrators of these crimes enjoying impunity, but also to ensure the full implementation of the Dayton Accords and thus support a peaceful resolution of the situation in the former Yugoslavia as a whole.

The European Union notes with satisfaction that the work of the International Tribunal has recently intensified. One trial has been completed, subject to appeal, and in another the accused has pleaded guilty and been sentenced to five years' imprisonment. Four other cases are ongoing. Sixty individuals are currently under indictment by the Tribunal, 26 of whom are in its custody. At the same time, we note with concern that compliance by the States in the region with their obligations under resolution 827 (1993) and article 29 of the Statute of the Tribunal to cooperate fully with the International Tribunal remains uneven. The European Union calls upon all States and entities in the region to fulfil their obligations to cooperate with the Tribunal.

Given the increase in the Tribunal's workload,it is no surprise that the existing judicial resources of the Tribunal are under heavy pressure. While the Statute of the Tribunal does guarantee all those appearing before it a fair and expeditious trial, it is nevertheless the case that some of those persons who are in custody have been awaiting trial for a long period of time. The addition of a third Trial Chamber of the International Tribunal, which has been requested by the President of the Tribunal, will enable the backlog of cases before the Tribunal to be dealt with more efficiently. The European Union is therefore in favour of the establishment of the third Trial Chamber in accordance with the draft resolution before the Security Council today.

The European Union also supports the request made to the Secretary-General in this draft resolution to enhance further the effective functioning of the International Tribunal, in particular by the timely provision of personnel and facilities. In this context, the European Union is pleased to recall that a second

courtroom has recently been opened for the holding of trials and that a third courtroom is expected to be completed in the near future. We reaffirm once again that it is essential that the Tribunal be given adequate resources to carry out its mandate effectively and that personnel of the Tribunal be managed efficiently. The European Union and its member States have made voluntary contributions to assist the Tribunal in fulfilling its functions. We express the hope that the Tribunal will continue to be provided with the necessary financial support, not least through the payment of annual contributions promptly and in full.

Finally, I would like to emphasize that the decision to increase the number of Trial Chambers of the International Tribunal, together with the decision taken by the Council last month in resolution 1165 (1998) to increase the number of Trial Chambers for the Rwanda Tribunal, both point to the broader concern of the international community that persons who commit serious offences, such as war crimes, be brought to justice. In this context, the European Union wishes to emphasize its strong support for the establishment of the international criminal court at the Diplomatic Conference to be held in Rome in June and July this year. The European Union firmly believes that the establishment of such a court is necessary in order to provide a permanent mechanism to bring to justice those who commit the most serious crimes of international concern and to deter the commission of such crimes in the future.

The President: It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection, it is so decided.

I shall first give the floor to those members of the Council who wish to make statements before the voting.

Mr. Sáenz Biolley (Costa Rica) (*interpretation from Spanish*): On 25 May this year, five years will have elapsed since this Council established the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia. Those years have marked a historic era for the international administration of justice. In that time, the Tribunal's administration has been consolidated, its rules of procedure have been drafted and a small but significant number of cases has been heard. The Tribunal's work has been of surpassing importance for the development of international humanitarian and human rights law. The Tribunal's jurisprudence has become an authoritative interpretation of international customary law and promoted the progressive development of that law in those areas where gaps or imprecisions remain.

We note with particular satisfaction the progress made, both in practice and in the rules of procedure, with regard to the protection of victims and witnesses as well as the correct interpretation, characterization and categorization of crimes against women and girls.

Moreover, my delegation believes that the very existence of the Tribunal has given the requisite impetus to the establishment of an international criminal court. In this context, we cannot fail to reiterate Costa Rica's firm commitment to the establishment of a permanent, independent, impartial and effective international criminal court at the Conference of Plenipotentiaries to be held in Rome in June and July this year. We are firmly convinced that solely through the creation of such a court can the international community definitively and truly reject and condemn the most serious crimes that offend the world's conscience. In contrast with this future court, the special tribunals created by the Security Council are merely temporary and transitional palliatives with roles confined to addressing emergency situations that pose real threats to international peace and security.

As my delegation has repeatedly indicated, we consider that justice is an indispensable element of peace. We believe that there can be no reconciliation if the truth is not brought to light and that a free and democratic society cannot be built while the criminal perpetrators of the most horrible atrocities go unpunished. We are convinced that impunity is a threat to peace, since it incites victims to revenge and strengthens the aggressors' arrogance. That is why we believe that the existence of this Tribunal is an indispensable element of the Balkan peace process.

In this context, the lack of cooperation with the Tribunal of some Governments, local authorities and international entities, in violation of their international obligations, is scandalous. The authorities of the Republika Srpska, the Federation of Bosnia and Herzegovina and the Federal Republic of Yugoslavia must comply with their international obligations. It is indispensable that the authorities of these entities arrest and extradite to the Tribunal the accused found on their territories. These arrests can no longer be postponed. It is also indispensable for these authorities to help in the

collection of evidence and to facilitate the participation of witnesses.

These authorities must also bring to justice all the possible perpetrators of crimes not being prosecuted by the International Tribunal. We must not forget that the International Tribunal's existence does not exempt them from their primary obligation to administer justice and punish those found guilty.

Another problem is the Tribunal's financial situation and lack of personnel. There is no doubt that the Tribunal requires greater resources and more staff of its own. The United Nations financial authorities and our own delegations in the Fifth Committee will have to make greater efforts to guarantee the Tribunal the necessary resources.

For all those reasons, Costa Rica cannot fail to respond favourably to the request made to the Security Council by the Tribunal, through its President, Judge Gabrielle Kirk McDonald, that a third trial chamber be established in order to try promptly all the accused now in custody. A basic requirement of the proper administration of justice is that it be speedy. In that connection, the decision the Council will take today is intended simply to guarantee full respect for the fundamental rights of the accused. We have therefore joined in sponsoring the draft resolution, and will vote in favour of it.

Mr. Monteiro (Portugal): My delegation associates itself fully with the statement delivered by the representative of the United Kingdom on behalf of the European Union.

As a sponsor of the draft resolution before the Council today, Portugal reaffirms its full support for the International Tribunal for the Former Yugoslavia. The Tribunal plays a crucial role in the significant efforts that the international community is making to help peace take root in the former Yugoslavia. In Bosnia today, it is the Stabilization Force (SFOR) that ensures a secure environment for the implementation of the Peace Agreement. Portugal continues to field troops in that Force.

But the mere absence of war does not make peace. In paving the way towards the reconstruction and rehabilitation of Bosnia, the High Representative is responsible for overseeing the implementation of the civilian aspects of the Peace Agreement, in which the United Nations Mission in Bosnia and Herzegovina and, particularly, the United Nations International Police Task Force, play a crucial role. There too, Portugal has police observers on the ground.

However, this long process of peace-building must also be based on reconciliation among the various communities. This is where the Tribunal comes into play. In seeking to prosecute, try and convict war criminals, the international community, through the Tribunal, is laying a foundation of justice which in turn will foment trust and hope in Bosnia and elsewhere in the former Yugoslavia, where former neighbours became enemies, and where former enemies must now become neighbours once more.

For this entire process to be effective, the Tribunal must be given the necessary means to function, and this is the reason for today's draft resolution. Through the Secretary-General, the President of the Tribunal, Judge Gabrielle Kirk McDonald, has requested that the Security Council establish a third trial chamber. This would be decided in the draft resolution before us. We strongly support these additional resources for the Tribunal. Portugal is honoured to have a judge serving on the Tribunal.

Security Council resolutions demand that States fully cooperate with the Tribunal in the fulfilment of its mandate. We strongly support the appeals to that end.

Finally, I would like to say that the important work of this Tribunal and of the International Tribunal for Rwanda points ever more emphatically to the need for a permanent court to bring the perpetrators of war crimes and other serious international crimes to justice. Portugal will strongly support the establishment of an international criminal court this summer at Rome.

Mr. Konishi (Japan): I should like at the outset to express the sincere appreciation of my delegation to you, Sir, for the kind words you conveyed to Ambassador Owada in his capacity as the previous President of the Security Council.

My delegation will vote in favour of the draft resolution before us, which would decide to establish a third trial chamber of the International Tribunal for the Former Yugoslavia and would decide also that three additional judges should be elected.

My delegation believes that the prosecution of persons responsible for serious violations of international

humanitarian law committed in the territory of the former Yugoslavia is a prerequisite for true reconciliation among the ethnic groups and for the restoration and maintenance of peace in the former Yugoslavia.

At the same time, we are aware that the constantly increasing workload of the Tribunal, particularly in the last several months, has made it difficult for the Tribunal to conduct its important tasks effectively. This problem creates difficulties in bringing to justice without delay those responsible for the tragedy and the atrocities which took place in the former Yugoslavia, and also in ensuring that the accused will have fair and expeditious trials.

My delegation is convinced that the trial chamber and judges to be added by the terms of the draft resolution, together with additional efforts by the Tribunal to improve the effectiveness of its functioning, will contribute to resolving these difficulties.

Finally, my delegation wishes, on behalf of the Government of Japan, to pay high tribute to the significant and diligent work of the Tribunal so far, and to stress the importance of full cooperation by all States with the Tribunal in accordance with their obligations under the relevant resolution.

The President: I thank the representative of Japan for the kind words he addressed to me.

Mr. Dahlgren (Sweden): Let me first say that I concur with the statement made earlier by the representative of the United Kingdom on behalf of the European Union.

The wars in the former Yugoslavia were marked by horrendous crimes against international humanitarian law, often committed in the name of that repulsive policy, "ethnic cleansing". Crimes such as mass killings, the systematic rape of women and detention under horrible circumstances constitute a threat to international peace and security. To prevent them from recurring, in the Balkans or elsewhere, the persons responsible must be brought to justice. The establishment in 1993 of the International Tribunal for the Former Yugoslavia was an important indication of the international community's determination to put an end to such crimes.

The work of the International Tribunal is also a crucial element in the broader peace-implementation and reconciliation process in the former Yugoslavia, in both the short-term and the long-term perspectives. Impunity breeds continued hate and mistrust. Rendering transparent justice brings clarity and hope for future generations, and that is why all indicted war criminals must be brought to The Hague.

These are the main reasons for Sweden's strong support over the years for the work of the Tribunal, both politically and in substance.

Today, we are very pleased to see that the work of the Tribunal has intensified. The recent increase in the number of indictees taken into custody has been most welcome. But we must also be prepared to adapt the resources of the Tribunal accordingly, so that the indictees can be tried without undue delay. It has become clear that the caseload has reached a point where we need to increase the judicial resources of the Tribunal.

Today's decision will confirm the strong support in the Council for the work and role of the International Tribunal. Having chaired the working group dealing with the ad hoc tribunals, Sweden is particularly gratified that the Council will be able to give a positive response today to the request from the Tribunal. By adding a third trial chamber, we will make it possible for the backlog of cases to be dealt with more expeditiously and the resources of the Tribunal, including the new courtrooms, to be used more effectively.

In closing, I would like to stress that today's decision, along with the similar decision the Council took last month concerning the Rwanda Tribunal, also highlights the need for a permanent international criminal court, to bring to justice any future crimes of this nature. At the Diplomatic Conference in Rome this summer, we must not hesitate to take the historic step of establishing such a court.

Mr. Richardson (United States of America): In approving this draft resolution to amend the statute the International Tribunal for the Former Yugoslavia, the Council will again reaffirm its commitment to holding accountable the perpetrators of the terrible ethnic crimes witnessed during the conflict in the former Yugoslavia. This is a commitment the United States has backed with words and deeds since the International Tribunal for the Former Yugoslavia was established over five years ago.

We would like to express our appreciation to the Swedish delegation for their leadership in the consideration of this draft resolution.

We are particularly pleased to support this draft resolution because it is an affirmation of the important work already completed by the Tribunal and of the still daunting task at hand. Increasing the Tribunal's capacity to try cases confirms its success thus far. In the past year, the Tribunal has seen a dramatic increase in the number of persons in custody. That many of these have recently chosen to surrender voluntarily indicates the growing realization that justice cannot be avoided.

But despite the efforts of the international community, and particularly the efforts of the International Tribunal itself, a number of the most notorious indictees of the Tribunal remain at large. We call upon all States to enhance their cooperation with the Tribunal to ensure that all indictees are brought to justice as swiftly as possible. Those indictees not yet in custody must understand that there is no safe haven for them. That they will be held accountable is a foregone conclusion. The only question is when.

The United States commends the work of the Tribunal and its efforts to function as efficiently and effectively as possible.

Having created a new trial chamber, the international community cannot assume that all the needs of the International Tribunal have been met. The Tribunal's increased workload will intensify the demand for additional resources beyond those available through the Tribunal's budget. We strongly urge all States to make voluntary contributions to the trust fund established for the Tribunal. This Tribunal was established because we all believe in the principle of accountability. We must now help the Tribunal complete its mission.

Last month, the Council took an important step in the quest for justice by expanding the International Criminal Tribunal for Rwanda. Today, we take another such step. My Government hopes the Council will also, in that same spirit, work constructively on the important issue of establishing a tribunal to bring to justice senior Cambodian Khmer Rouge leaders during the period 1975 through 1979.

Mr. Türk (Slovenia): I wish to begin by expressing the support of our delegation for the statement made at the beginning of this discussion by the representative of the United Kingdom on behalf of the European Union and associated countries.

The Security Council has, in resolution 827 (1993), entrusted the Tribunal for the Former Yugoslavia with a historic mandate to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991.

In the nearly four and a half years of its existence, the Tribunal has established admirable credibility as an independent court. Furthermore, it has proved to be an important international judicial institution whose proper functioning is vital for the implementation of the Dayton peace accords. Any kind of hindrance of the Tribunal's statutory functions would have negative effects on the endeavours of the Security Council and the international community in building substantive grounds for a lasting peace in Bosnia and Herzegovina and on security in the region. The International Tribunal for the Former Yugoslavia can therefore not afford to fail in its mission.

In addition to its immediate purpose, the Tribunal also has a significant symbolic role of global importance. The Tribunal symbolizes the end of the culture of impunity and marks the advent of peace with justice rather than mere appeasement. This is a valid contribution of the Tribunal to the strengthening of real peace.

Moreover, the Tribunal for the Former Yugoslavia is playing a pioneering role and, jointly with the International Criminal Tribunal for Rwanda, is setting important precedents in international criminal jurisprudence. Its existence has underscored the need for the creation of a permanent international mechanism to address human rights and humanitarian law violations. In this context, let me emphasize Slovenia's strong commitment to the establishment of an independent, impartial and effective permanent international criminal court at the Diplomatic Conference to be held in Rome in June and July of this year.

It is our conviction that the Tribunal for the Former Yugoslavia should be given all the necessary resources to efficiently deliver justice. We further believe that the accused persons in custody are entitled to be tried without unnecessary delays, in accordance with the internationally accepted standards of due process.

We are pleased to see that there has been significant progress in improving the procedures of the Tribunal. We have confidence in the ability of the Tribunal to continue managing its work efficiently so as to ensure optimal use

of all its resources. The request by the Tribunal for additional judges, which was presented to the Security Council by its President, Judge Gabrielle Kirk McDonald, in February this year, is valid, especially since the workload of the Tribunal has recently intensified.

Despite the increased number of persons in custody, my delegation is compelled to express its serious concern at the fact that the most prominent military and political leaders who have been indicted remain at large. It is imperative that they be brought to justice. This is an important condition for lasting peace in Bosnia and Herzegovina.

The creation of a third trial chamber, which is the object of the draft resolution before the Council today, is timely. It will ensure full utilization of the three courtrooms and will, as a final result, expedite the Tribunal's work.

We note with satisfaction that the members of the Council are unanimous in their positive response to the request of the President of the Tribunal. We would like to take this opportunity to express our appreciation to the delegation of Sweden for its leading role in the preparation of the draft resolution. For our part, we will continue to do our utmost for justice, reconciliation and peace in the region. Full support for the Tribunal is one of the means to achieve that goal. Slovenia will therefore vote in favour of the draft resolution, of which we are a sponsor.

Mr. Valle (Brazil): Some 15 days ago the Security Council adopted resolution 1165 (1998) authorizing the creation of an additional Trial Chamber for the International Criminal Tribunal for Rwanda. It is with the same spirit that prevailed then that Brazil supports the idea of an additional trial chamber for the International Tribunal for the Former Yugoslavia to bring to justice those responsible for serious violations of international humanitarian law and thus contribute to the restoration and maintenance of peace in the subregion.

Indeed, we must not forget that those indicted by the Tribunal have been charged with extremely serious crimes, and that unless the Tribunal is given appropriate working conditions it will not be able to satisfactorily fulfil the mandate ascribed to it by the Security Council.

It is also true, however, that the financial implications of the decision we are about to take are not entirely clear. Therefore Brazil's support for the creation of a third trial chamber should not be construed as approval of any amount of additional resources for the Tribunal. We should consider the financial issue in the appropriate forum, taking into account the specific demands of the Tribunal for the Former Yugoslavia as well as the need to dispense equitable treatment to both ad hoc Tribunals.

Brazil has supported the creation of the ad hoc Tribunals as an exceptional action on the part of the United Nations and of Member States in the face of the exceptionally grave circumstances that demanded their creation. Since then, the United Nations and the international community as a whole have put forward a strong effort to make sure that atrocities such as the ones we have witnessed in the former Yugoslavia and in Rwanda will not go unpunished.

Weeks away from the Rome Conference on the Establishment of an International Criminal Court, we believe that we must concentrate our efforts on the creation of a permanent institutional mechanism of administration of justice that is independent, impartial and efficient. Thus, it is our understanding that with the establishment of the International Criminal Court there will be no more need for the United Nations to resort to ad hoc tribunals.

Mr. Dejammet (France) (*interpretation from French*): The Security Council, in resolutions 808 (1993) and 827 (1993), entrusted the International Criminal Tribunal for the Former Yugoslavia with the task of trying persons charged with serious violations of international humanitarian law committed in the territory of the former Yugoslavia from 1 January 1991. The members of the Tribunal have carried out that task in a manner that we greatly admire and that justifies our support of them.

Last January the President of the Tribunal requested an increase in the number of judges so that a third Trial Chamber could be established and trials could be carried out within a reasonable time. France supported this request as soon as it was submitted to the Security Council. The increase in the number of judges had indeed become necessary because of the growing number of cases submitted to the Tribunal.

France is pleased that, following the adoption of resolution 1165 (1998), which increased the number of judges for the International Tribunal for Rwanda, there has also been unanimity among the members of the Council with regard to responding affirmatively to the request made by the President of the Tribunal for the

Former Yugoslavia. We shall vote in favour of the draft resolution.

The adoption of the draft resolution will show the Council's resolve to give the Tribunal the resources it needs so that it can continue its work for justice. We welcome the efforts made to enhance its functioning and its procedures. We are confident that it will continue along this track.

Mr. Karev (Russian Federation) (*interpretation from Russian*): My delegation attaches great importance to the International Tribunal for the Former Yugoslavia, whose activities we believe to be contributing to general efforts to restore peace in the region. Given the need to enhance the effectiveness of the work of the Tribunal, our delegation supports the request made by the President of the International Tribunal for the establishment of a third Trial Chamber. We trust that this will expedite the activities of the Tribunal in carrying out the tasks assigned to it.

We understand that the reference in the draft resolution to Chapter VII of the Charter is purely a technicality and will not set a precedent for the Security Council's consideration of any similar situation.

Ms. Onanga (Gabon) (*interpretation from French*): The serious human rights violations in the former Yugoslavia in 1991 called for a response from the international community, and in particular the United Nations. Thus five years ago, on 25 May 1993, Security Council resolution 827 (1993) provided for the establishment of an international Tribunal to try persons presumed to be responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia. Gabon reaffirms its full support for this special Tribunal.

In his letter of 5 May 1998, the Secretary-General, referring to the letter of 16 April 1998 from the President of the Tribunal, asked for a third Trial Chamber to be established. This request is justified by the fact that the capacities of the two existing Trial Chambers are limited and at saturation point because of the very great increase in the number of persons charged and held. The decision to increase the number of Trial Chambers of the Tribunal for the Former Yugoslavia will make it possible to improve the functioning of the Tribunal, particularly its capacity to try cases.

The Council will recall that two weeks ago, through resolution 1165 (1998) of 30 April 1998, it decided, for similar reasons, to create a third Trial Chamber for the International Tribunal for Rwanda.

For all these reasons, the delegation of Gabon can only vote in favour of the draft resolution before us.

Mr. Al-Dosari (Bahrain) (*interpretation from Arabic*): At the outset, I should like to express my sincerest thanks and appreciation to the delegations of Sweden and the United States of America for their efforts in preparing the draft resolution before us, which has the support of all members of the Security Council. We should also like to commend the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia for its important work, and to pay tribute to the President of the Tribunal, Mrs. Gabrielle Kirk McDonald.

The meeting last 12 February between members of the Security Council and the President of the Tribunal provided an important opportunity for learning about the concerns of the Tribunal and the situations with which it has to deal. In this connection, we hope that the draft resolution before us has met all of these concerns, and we hope that it will contribute to moving the work of the Tribunal forward so that it can fulfil its mandate and its tasks as soon as possible.

My delegation urges the various parties in the territory of the former Yugoslavia to cooperate fully with the International Tribunal. In this respect, we should like to express our great satisfaction with regard to the progress achieved in the past few months and the increase in the number of people who have surrendered voluntarily to the Tribunal either individually or through various bodies and international institutions. The Security Council's adoption of this draft resolution today will enable us to have high hopes for the efforts of the Tribunal, which we expect will greatly improve over the coming months.

We believe that all those who are responsible for crimes of ethnic genocide and other serious violations of international humanitarian law in the former Yugoslavia should receive just retribution for their crimes. My delegation supports this draft resolution and will vote in favour of it. We hope that its adoption will promote the work and increase the effectiveness of the International Tribunal.

Mr. Touray (Gambia): In 1991 the former Yugoslavia witnessed one of the most horrendous offences against international humanitarian law, to which the international community, through the Security Council, responded very fittingly by establishing in 1993 the International Criminal Tribunal for the Former Yugoslavia to prosecute the persons responsible for those crimes. The establishment of the Tribunal was and still is a necessary measure for the process of national reconciliation and the restoration of peace in the former Yugoslavia.

The International Criminal Tribunal for the Former Yugoslavia currently has on its case list 29 accused persons awaiting trial. This dramatic increase in the number of accused persons has rendered the Tribunal unable to expeditiously conclude the trials of all the accused persons.

We also understand that there are 54 public indictees who are not in custody. If all these people are to be brought to trial, it is obvious that the Tribunal cannot, under its existing arrangements, expeditiously conclude all the trials.

We believe that the Tribunal needs additional judicial support in the form of a third Trial Chamber. The report of the President of the Tribunal makes a very compelling case for the establishment of a third Trial Chamber. We agree with the assessment of the situation.

One important issue for consideration is that the matter impinges on the right of the accused person to be tried expeditiously, as guaranteed by the Statute of the Tribunal. If a third Trial Chamber is not established, this fundamental right will be violated. For these reasons, we support the establishment of a third Trial Chamber.

We note with satisfaction the successes registered by the Tribunal in improving its working procedures. We believe, however, that more could still be done in this regard, and we thus urge the members to reconsider their working procedures with a view to enhancing them further.

The Government of the Gambia has a very strong commitment to the protection of fundamental rights. Thus, we will always support legitimate measures that have as their objective the protection of fundamental human rights. This draft resolution falls within this category. The Gambia will vote in favour of it.

Mr. Shen Guofang (China) (*interpretation from Chinese*): China has always attached great importance to humanitarian questions in the territory of the former Yugoslavia, and it always opposes actions violating international humanitarian law. On the basis of this political consideration, China voted in favour of Security Council resolution 827 (1993) on the establishment of the International Criminal Tribunal for the Former Yugoslavia.

We note that, since its establishment, the Tribunal, thanks to the cooperation of all sides concerned, has made earnest efforts and certain achievements. In particular, recently all sides concerned have been cooperating even more actively with the Tribunal. We encourage the continuation of this cooperation so that the Tribunal can complete its work as early as possible, in accordance with the provisions of the Council resolution.

We appreciate the efforts made by the Tribunal to improve its efficiency, and we understand the difficulties it faces. We hope that the decision to be taken by the Security Council today will help speed up the work of the Tribunal. In view of the current requests and needs of the Tribunal and of the requests of all sides concerned, China will vote in favour of the draft resolution before us.

However, we wish to express our reservation about invoking Chapter VII of the Charter in the draft resolution. When the Security Council was adopting resolution 827 (1993) we expressed a similar reservation. Over the last five years the situation in the territory of the former Yugoslavia has undergone tremendous changes. This makes it even less appropriate to invoke Chapter VII now.

The President: I shall now make a statement in my capacity as the representative of Kenya.

On 30 April 1998, when the Council took a decision on the Rwanda Tribunal similar to the one now before us for consideration, my delegation underscored the primary goal of the two ad hoc Tribunals established by the Security Council to bring peace and reconciliation through justice. The cause of justice, however, cannot be served unless the Tribunals and their organs are provided with the necessary tools to enable them not only to fulfil their mandates but also to function in an effective and efficient manner.

The guarantee of fair and expeditious trials is paramount, and it is for this reason that we welcome and support the proposed decision to establish the third Trial Chamber of the International Tribunal for the Former Yugoslavia. We thank those Member States that have

helped the Tribunal overcome some of its difficulties by financing the building of additional court facilities. We hope that these facilities will be fully utilized in order to ensure the speedy conclusion of the pending trials.

The draft resolution urges all States to cooperate fully with the International Tribunal and its organs in bringing to justice all persons suspected of having committed heinous crimes in the former territories of Yugoslavia. As new evidence of gross human rights abuses perpetrated against the civilian population in Bosnia and elsewhere in the region continues to emerge, we appeal to those concerned to take appropriate steps to ensure that those who have been indicted for the war crimes and are still at large are apprehended and brought to trial.

In conclusion, I wish to thank the delegation of Sweden for once again coordinating work on the draft resolution, to which we are proud to render our support.

I now resume my functions as President of the Council.

I shall now put to the vote the draft resolution contained in document S/1998/386.

A vote was taken by show of hands.

In favour:

Bahrain, Brazil, China, Costa Rica, France, Gabon, Gambia, Japan, Kenya, Portugal, Russian Federation, Slovenia, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1166 (1998).

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 1.15 p.m.